

**MINUTES OF THE CITY-COUNTY COUNCIL
AND
SPECIAL SERVICE DISTRICT COUNCILS
OF
INDIANAPOLIS, MARION COUNTY, INDIANA**

**REGULAR MEETINGS
MONDAY, JANUARY 28, 2008**

The City-County Council of Indianapolis, Marion County, Indiana and the Indianapolis Police Special Service District Council, Indianapolis Fire Special Service District Council and Indianapolis Solid Waste Collection Special Service District Council convened in regular concurrent sessions in the Council Chamber of the City-County Building at 7:00 p.m. on Monday, January 28, 2008, with President Cockrum presiding.

Councillor Cain led the opening prayer and invited all present to join her in the Pledge of Allegiance to the Flag.

ROLL CALL

President Gray instructed the Clerk to take the roll call and requested members to register their presence on the voting machine. The roll call was as follows:

28 PRESENT: Bateman, Brown, Cain, Cardwell, Carson, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lutz, Mahern B, Mahern D, Malone, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Pfisterer, Plowman, Pryor, Sanders, Scales, Smith, Speedy, Vaughn
1 ABSENT: Oliver

A quorum of twenty-eight members being present, the President called the meeting to order.

INTRODUCTION OF GUESTS AND VISITORS

Councillor McQuillen introduced good friend Dan Tierney. Councillor Pfisterer recognized former Town Council of Speedway member, Dean Farmer. Councillor Sanders wished Councillor Oliver a speedy recovery from surgery. Councillor Smith extended his deepest sympathy to the family and friends of those who fell victim this past week to violent crime. He stated that his prayers go out to them. Councillor Vaughn agreed and thanked the citizens who came forward in helping to find those people responsible for this horrible crime on Hovey Street. Councillor Plowman wished his wife a happy birthday.

OFFICIAL COMMUNICATIONS

The President called for the reading of Official Communications. The Clerk read the following:

TO ALL MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA

Ladies And Gentlemen :

You are hereby notified the REGULAR MEETINGS of the City-County Council and Police, Fire and Solid Waste Collection Special Service District Councils will be held in the City-County Building, in the Council Chambers, on Monday, January 28, 2008, at 7:00 p.m., the purpose of such MEETINGS being to conduct any and all business that may properly come before regular meetings of the Councils.

Respectfully,
s/Bob Cockrum
President, City-County Council

ADOPTION OF THE AGENDA

The President proposed the adoption of the agenda as distributed. Without objection, the agenda was adopted.

APPROVAL OF THE JOURNAL

The President called for additions or corrections to the Journal of January 7, 2008. There being no additions or corrections, the minutes were approved as distributed.

PRESENTATION OF PETITIONS, MEMORIALS, SPECIAL RESOLUTIONS, AND COUNCIL RESOLUTIONS

Councillor Pfisterer stated that Proposal Nos. 42 and 43, 2008 recognize two young men for achieving the Boy Scout rank of Eagle. She asked for consent to vote on these proposals together. Consent was given.

PROPOSAL NO. 42, 2008. The proposal, sponsored by Councillor Pfisterer, recognizes Jay Staton on attaining the rank of Eagle Scout. PROPOSAL NO. 43, 2008. The proposal, sponsored by Councillor Pfisterer, recognizes Evan Fetherolf on attaining the rank of Eagle Scout. Councillor Pfisterer read the proposals and presented the young men with copies of the documents and Council pins. Both young men thanked the Council for the recognition, as well as their parents, troop leaders and the organization of Boy Scouts of America. Councillor Pfisterer moved, seconded by Councillor Malone, for adoption. Proposal Nos. 42 and 43, 2008 were adopted by a unanimous voice vote.

Proposal No. 42, 2008 was retitled SPECIAL RESOLUTION NO. 1, 2008, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 1, 2008

A SPECIAL RESOLUTION recognizing Jay Staton on attaining the rank of Eagle Scout.

WHEREAS, Jay began his scouting career as a Tiger Cub in the first grade, and earned his Arrow of Light as a Webelo in fifth grade; and

WHEREAS, Jay entered into Boy Scout Troop 505 after fifth grade, during which he held many leadership positions, including Senior Patrol Leader, Assistant Senior Patrol Leader, Patrol Leader, and Assistant Patrol Leader; and

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WHEREAS, in addition, Jay has earned the Altre Dei award, traveled with a crew from his troop to Philmont Scout Reservation in New Mexico and the Bahamas, and completed the Bahamas Seabase Program; and

WHEREAS, Jay also attended the Ransburg Scout Reservation summer camp program for five years, three of which he participated in the Firecrafter program and earned his Camper, Woodsman, and Firecrafter ranks; and

WHEREAS, academically, Jay is a member of the National Honors Society, has been in the Top Ten of his class for his entire three years of High School, has had perfect attendance since his sophomore year, was awarded the Hanna Scholastic Award for Football, and earned the Academic All-Conference for outstanding academic achievement while on the varsity football team; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Indianapolis City-County Council proudly recognizes Jay Staton for his many outstanding achievements and accomplishments.

SECTION 2. The Council encourages Jay to continue in his journey and wishes him great success in all future endeavors.

SECTION 3. The Mayor is invited to join in this resolution by affixing his signature hereto.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 43, 2008 was retitled SPECIAL RESOLUTION NO. 2, 2007, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 2, 2008

A SPECIAL RESOLUTION recognizing Evan Fetherolf on attaining the rank of Eagle Scout.

WHEREAS, Evan is with Troop 505, and has received the Top Scout special award for four quarters; and

WHEREAS, during his years in the troop, Evan has held many positions, including Bugler, Chaplain's Aide, Assistant Patrol Leader, Patrol Leader, Assistant Senior Patrol Leader, and Senior Patrol Leader; and

WHEREAS, Evan has attended the Ransburg Scout Camp, the Belzer Day camp, and the Webelos Adventure camp. He has traveled to the Philmont Scout Reservation in New Mexico and completed the Bahamas Seabase Program; and

WHEREAS, in addition, Evan was a White Stag participant in June, 2004, and he participated in the 2005 Grand Ritual of the Firecrafter program and served as the Ember Secretary/Treasurer of the Firecrafter program from 2006 to 2007; and

WHEREAS, scholastically, Evan is frequently an academic honor roll recipient and serves as a sound board and lighting technician for various plays and musicals at Speedway High School. He is also a member of the Speedway Junior and Senior High School Cross Country and Track teams; and

WHEREAS, Evan was a member of the 2005 Indiana All Region Band, has been a member of the Speedway 500 Marching Band for three years, and has won several first and second place awards in the Indiana State School Music Association's Solo and Ensemble contest in both piano and trumpet; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Indianapolis City-County Council proudly recognizes Evan Fetherolf for his many outstanding achievements and accomplishments.

SECTION 2. The Council encourages Evan to continue in his journey and wishes him great success in all future endeavors.

SECTION 3. The Mayor is invited to join in this resolution by affixing his signature hereto.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 44, 2008. The proposal, sponsored by Councillors Bateman, Oliver and Nytes, recognizes the Country Kitchen Soul Food Place for their efforts during the Christmas holiday. Councillor Bateman stated that representatives could not be present this evening and he moved, seconded by Councillor Carson, to postpone Proposal No. 44, 2008 until February 11, 2008. Proposal No. 44, 2008 was postponed by a unanimous voice vote.

PROPOSAL NO. 1, 2008. Councillor Lutz reported that the Rules and Public Policy Committee heard Proposal No. 1, 2008 on January 15, 2008. The proposal, sponsored by Councillor Cockrum, appoints Curtis Scott Ratliff to the Common Construction Wage Committee for Decatur Township. By an 8-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Lutz moved, seconded by Councillor Vaughn, for adoption. Proposal No. 1, 2008 was adopted by a unanimous voice vote.

Proposal No. 1, 2008 was retitled COUNCIL RESOLUTION NO. 1, 2008, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 1, 2008

A COUNCIL RESOLUTION appointing Curtis Scott Ratliff to the Common Construction Wage Committee for Decatur Township.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Common Construction Wage Committee for Decatur Township, the Council appoints:

Curtis Scott Ratliff

SECTION 2. The appointment made by this resolution shall serve at the pleasure of the council and shall continue until a successor is appointed and qualifies.

SECTION 3. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 5, 2008. Councillor Vaughn reported that the Public Safety and Criminal Justice Committee heard Proposal No. 5, 2008 on January 9, 2008. The proposal, sponsored by Councillors Vaughn, Plowman, Pfisterer, McQuillen and Speedy, approves the Mayor's appointment of Scott C. Newman as the Director of the Department of Public Safety. By an 8-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Vaughn moved, seconded by Councillor Cardwell, for adoption. Proposal No. 5, 2007 was adopted by a voice vote.

Proposal No. 5, 2008 was retitled COUNCIL RESOLUTION NO. 2, 2008, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 2, 2008

A COUNCIL RESOLUTION approving the Mayor's appointment of Scott C. Newman as the Director of the Department of Public Safety for a term ending December 31, 2008, and until a successor is appointed and confirmed.

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WHEREAS, pursuant to IC 36-3-5-2 and Section 201-3 of the "Revised code of the Consolidated City and County," a mayoral appointment of the Director of the Department of Public Safety is subject to the approval of the City-County Council; and

WHEREAS, the Mayor of the City of Indianapolis has submitted to this Council the name of Scott C. Newman to serve as Director of the Department of Public Safety at his pleasure for a term ending December 31, 2008; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Scott C. Newman is approved and confirmed by the City-County Council to serve as the Director of the Department of Public Safety for a term ending December 31, 2008, and until a successor is appointed and confirmed.

SECTION 2. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 7, 2008. Councillor McQuillen reported that the Municipal Corporations Committee heard Proposal No. 7, 2008 on January 22, 2008. The proposal, sponsored by Councillor McQuillen, appoints Robert E. Cockrum to the Capital Improvement Board of Managers. By a 6-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor McQuillen moved, seconded by Councillor Pfisterer, for adoption. Proposal No. 7, 2008 was adopted by a unanimous voice vote.

Proposal No. 7, 2008 was retitled COUNCIL RESOLUTION NO. 3, 2008, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 3, 2008

A COUNCIL RESOLUTION appointing Robert E. Cockrum to the Capital Improvement Board of Managers.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Capital Improvement Board of Managers, the Council appoints:

Robert E. Cockrum

SECTION 2. The appointment made by this resolution is for a term ending on January 15, 2010. The person appointed by this resolution shall serve at the pleasure of the Council or until a successor is appointed and qualified.

SECTION 3. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

INTRODUCTION OF PROPOSALS

PROPOSAL NO. 12, 2008. Introduced by Councillor Pfisterer. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Jennifer Ruby to the Information Technology Board"; and the President referred it to the Administration and Finance Committee.

PROPOSAL NO. 13, 2008. Introduced by Councillor Pfisterer. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Susan Swayze to the Audit Committee"; and the President referred it to the Administration and Finance Committee.

PROPOSAL NO. 14, 2008. Introduced by Councillor Cardwell. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which nominates Terry Dilk for appointment to

the Beech Grove Economic Development Commission"; and the President referred it to the Economic Development Committee.

PROPOSAL NO. 15, 2008. Introduced by Councillor Cardwell. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Robert Gallant to the Indianapolis Economic Development Commission"; and the President referred it to the Economic Development Committee.

PROPOSAL NO. 16, 2008. Introduced by Councillor Cardwell. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Patricia Chastain to the Indianapolis City Market Corporation Board of Directors"; and the President referred it to the Economic Development Committee.

PROPOSAL NO. 17, 2008. Introduced by Councillor Cardwell. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Richard D. VanParis, II to the Indianapolis City Market Corporation Board of Directors"; and the President referred it to the Economic Development Committee.

PROPOSAL NO. 18, 2008. Introduced by Councillor Plowman. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Timothy Ping to the Metropolitan Development Commission"; and the President referred it to the Metropolitan Development Committee.

PROPOSAL NO. 19, 2008. Introduced by Councillor Plowman. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Bradley A. Klopfenstein to the Metropolitan Board of Zoning Appeals, Division "; and the President referred it to the Metropolitan Development Committee.

PROPOSAL NO. 20, 2008. Introduced by Councillor Plowman. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Timothy J. Maguire to the Metropolitan Board of Zoning Appeals, Division "; and the President referred it to the Metropolitan Development Committee.

PROPOSAL NO. 21, 2008. Introduced by Councillor Plowman. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which amends the Code to add "religious use" as a permitted use in the commercial zoning district, to make the definition uniform throughout the Code and to make related amendments"; and the President referred it to the Metropolitan Development Committee.

PROPOSAL NO. 22, 2008. Introduced by Councillor Day. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Diana M. Hall to the Board of Parks and Recreation"; and the President referred it to the Parks and Recreation Committee.

PROPOSAL NO. 23, 2008. Introduced by Councillors Vaughn and Hunter. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Astrid Poston to the Citizens Police Complaint Board"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 26, 2008. Introduced by Councillor Cockrum. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints William Dowden to the Board of Public Safety"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 27, 2008. Introduced by Councillors Cockrum and Vaughn. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Kenneth Giffin to the Board of Public Safety"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 28, 2008. Introduced by Councillor Vaughn. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Jennifer Lukemeyer to the Marion County Public Defender Board"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 29, 2008. Introduced by Councillor Vaughn. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Jon M. Bailey to the Marion County Public Defender Board"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 30, 2008. Introduced by Councillor Vaughn. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Paul Page to the Marion County Public Defender Board"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 31, 2008. Introduced by Councillor Cockrum. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Bradley Battin to the Indianapolis-Marion County Forensic Board"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 32, 2008. Introduced by Councillor Vaughn. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Michael Biberstine to the Juvenile Detention Advisory Board"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 33, 2008. Introduced by Councillor Vaughn. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an increase of \$266,667 in the 2008 Budget of the Marion County Prosecutor (State and Federal Grants Fund) to fund salaries and fringes for staff in the Community Prosecution Division, funded through a grant of Byrne Memorial Funds by the Indiana Criminal Justice Institute"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 34, 2008. Introduced by Councillor Vaughn. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which appropriates \$25,000 in the Budget of the Marion County Justice Agency (Drug Free Community Fund) to fund a grant awarded to Drug Free Marion County, Inc. to cover the administrative expenses of that organization"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 35, 2008. Introduced by Councillor Hunter. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which approves the Mayor's appointment of David Sherman as the Director of the Department of Public Works "; and the President referred it to the Public Works Committee.

PROPOSAL NO. 36, 2008. Introduced by Councillors Cain and Hunter. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Harrison R. Smith to the Board of Public Works"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 37, 2008. Introduced by Councillor Hunter. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Gary W. Whitmore to the Board of Public Works"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 38, 2008. Introduced by Councillor Plowman. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Jennifer L. Ping to the Alcohol Beverage Board of Marion County"; and the President referred it to the Rules and Public Policy Committee.

PROPOSAL NO. 39, 2008. Introduced by Councillors Lutz and Pfisterer. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Dean T. Farmer to the Cable Franchise Board"; and the President referred it to the Rules and Public Policy Committee.

PROPOSAL NO. 40, 2008. Introduced by Councillor Lutz. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Peter Nugent to the Board of Ethics"; and the President referred it to the Rules and Public Policy Committee.

PROPOSAL NO. 41, 2008. Introduced by Councillors Lutz and Pfisterer. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which approves the Mayor's establishment of a charter school, "The Indianapolis Project School," by issuing a charter to The Project School, Inc."; and the President referred it to the Rules and Public Policy Committee.

SPECIAL ORDERS - PRIORITY BUSINESS

PROPOSAL NO. 45, 2008, PROPOSAL NO. 46, 2008, PROPOSAL NOS. 47-48, 2008 and PROPOSAL NOS. 49-54, 2008. Introduced by Councillor Mahern. Proposal No. 45, 2008, Proposal No. 46, 2008, Proposal Nos. 47-48, 2008 and Proposal Nos. 49-54, 2008 are proposals for Rezoning Ordinances certified by the Metropolitan Development Commission on January 16 and 17, 2008. The President called for any motions for public hearings on any of those zoning maps changes. There being no motions for public hearings, the proposed ordinances, pursuant to IC 36-7-4-608, took effect as if adopted by the City-County Council, were retitled for identification as REZONING ORDINANCE NOS. 5-14, 2008, the original copies of which ordinances are on file with the Metropolitan Development Commission, which were certified as follows:

REZONING ORDINANCE NO. 5, 2008.

2007-ZON-841

3502 NORTH SHADELAND AVENUE (Approximate Address), INDIANAPOLIS

WARREN TOWNSHIP, COUNCILMANIC DISTRICT # 17

3502 N. SHADELAND LLC, by Ray Good, requests rezoning of 21.435 acres, from the I-2-S District, to the C-S classification to provide for mini-warehouses and automobile, truck and bus repair with a 7.1-acre, paved outdoor storage area for vehicles and a 9.1-acre, gravel outdoor storage area for vehicles

REZONING ORDINANCE NO. 6, 2008.

2007-ZON-100

7910 AND 7920 WEST WASHINGTON STREET (Approximate Address), INDIANAPOLIS

WAYNE TOWNSHIP, COUNCILMANIC DISTRICT # 13

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WILLS DEVELOPMENT, LLC, by David Kingen, requests rezoning of 6.2 acres, from the C-S District, to the C-S classification to provide for C-1, C-2 and C-4 uses, a school and a daycare.

REZONING ORDINANCE NO. 7, 2008.

2007-ZON-103

8900 WEST MOORESVILLE ROAD, 7652 THROUGH 8561 GOLD RUSH WAY AND 7647 THROUGH 7715 FIRECREST LANE (*Approximate Address*) INDIANAPOLIS

DECATUR TOWNSHIP, COUNCILMANIC DISTRICT # 22

MANN PROPERTIES, LLC by Stephen D. Mears requests rezoning of 15.5 acres, from the D-7 District, to the D-5 classification to provide for residential uses.

REZONING ORDINANCE NO. 8, 2008.

2007-ZON-124

1737, 1743, 1745 AND 1801 SHELBY STREET (*Approximate Address*), INDIANAPOLIS

CENTER TOWNSHIP, COUNCILMANIC DISTRICT # 20

ST. MARK A.M.E. ZION CHURCH requests rezoning of 0.4235 acre, from the C-2 District, to the SU-1 classification to provide for religious uses.

REZONING ORDINANCE NO. 9, 2008.

2007-ZON-084

414 AND 420 SOUTH SHERMAN DRIVE (*Approximate Address*), INDIANAPOLIS

CENTER TOWNSHIP, COUNCILMANIC DISTRICT # 16

OWEN CREW requests rezoning of 0.202 acre, from the D-5 District, to the C-3 classification to provide for community-regional commercial uses.

REZONING ORDINANCE NO. 10, 2008.

2007-ZON-099

7013 EAST 86TH STREET (*Approximate Address*), INDIANAPOLIS

LAWRENCE TOWNSHIP, COUNCILMANIC DISTRICT # 5

PROFESSIONAL PROPERTY MANAGEMENT OF INDIANA, LLC, by David Kingen, requests rezoning of 1.33 acres, from the I-3-S District, to the C-5 classification to provide for general commercial uses.

REZONING ORDINANCE NO. 11, 2008.

2007-ZON-116

9540 CORPORATION DRIVE (*Approximate Address*), INDIANAPOLIS

LAWRENCE TOWNSHIP, COUNCILMANIC DISTRICT # 5

MIKE'S CARWASH INC., by Stephen D. Mears requests rezoning of 2.22 acres, from the C-3 District, to the C-6 classification to provide for thoroughfare service commercial uses.

REZONING ORDINANCE NO. 12, 2008.

2007-ZON-125

3721 AND 3733 NORTH MERIDIAN STREET (*Approximate Address*), INDIANAPOLIS

CENTER TOWNSHIP, COUNCILMANIC DISTRICT # 9

3733 NORTH MERIDIAN PROPERTIES, LLC, by Sanford Garner requests rezoning of 1.06 acres, from the D-9 District, to the C-1 classification to provide for office-buffer commercial uses.

REZONING ORDINANCE NO. 13, 2008.

2006-ZON-865

5750 MICHIGAN ROAD (*Approximate Address*), INDIANAPOLIS

WASHINGTON TOWNSHIP, COUNCILMANIC DISTRICT # 8

LISA M. BRYSON requests rezoning of 0.596 acre, from the D-3 District, to the C-2 classification to legally establish a children's daycare center.

REZONING ORDINANCE NO. 14, 2008.

2007-ZON-832

3740 LAFAYETTE ROAD (*Approximate Address*), INDIANAPOLIS

WAYNE TOWNSHIP, COUNCILMANIC DISTRICT # 7

FASHIONS SQUARE, L.P., by Robert M. Frye, requests rezoning of 2.01 acres, from the D-5 (FF) and C-4 (FF) Districts, to the C-4 (FF) classification to legally establish community-regional commercial uses.

SPECIAL ORDERS - FINAL ADOPTION

PROPOSAL NO. 2, 2008. Councillor Lutz reported that the Rules and Public Policy Committee heard Proposal No. 2, 2008 on January 15, 2008. The proposal, sponsored by Councillors Mansfield, Lutz, Hunter, Day and Speedy, amends Chapter 151 of the Code regarding the duties of the general counsel and caucus attorneys with regard to representation of council members on private matters. By an 8-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended.

Councillor Mansfield stated that the proposal was amended in Committee to address instances where the caucus attorneys could represent Councillors in matters brought about by virtue of their office. She said that there remains some concerns about associates in the contracted attorneys' law firms representing a Councillor on a private matter. She said that she believes the rules of professional conduct for attorneys would cover those instances.

Councillor Speedy stated that he supports the proposal and thanked Councillor Mansfield for addressing this initiative.

Councillor Brown asked hypothetically if Councillor Lutz was the General Counsel, he could not represent a Councillor on a private matter, but his son or wife, who also worked in his law firm could. Councillor Mansfield said that the rules of professional conduct for attorneys addresses this issue, and these rules are clear that when there is a conflict of interest, attorneys associated with the same firm cannot represent that individual in private matters, either. Councillor Brown asked if the rules of professional conduct do not cover the way the Council currently does business.

Councillor Malone stated that she believes the attorneys for the Council are covered in the rules of professional conduct for attorneys, specifically in 1.7, 1.8, 1.9, 1.10 and 1.11. She said that she has been a lawyer in Indianapolis since 1983 and served as a hearing officer in 1990 for attorney disciplinary matters. She said that this proposal is overly broad, unenforceable, and beyond the prescribed ethical limitations in the professional conduct for attorneys. She said that it is unclear what actions are addressed in this proposal that are not already in the rules of professional conduct for attorneys, and if there is no conflict with actual Council business, she does not understand the need for this proposal. She said that she opposes the proposal on these grounds.

Councillor Vaughn said that the rules of professional conduct are very clear about conflict of interest, but nothing precludes this Council from holding themselves to a higher standard. He said that as elected officials, they are often under a heightened level of scrutiny, and this proposal addresses the appearance of a conflict, and not just an actual conflict of interest.

Councillor Speedy agreed with Councillor Vaughn and said that although the Council may be forfeiting a bit of a right to hire the counsel they wish, the perception of the public warrants it.

Councillor Coleman asked if the conflict of interest issue is already covered in the rules of professional conduct, is this proposal really needed or does it simply do the same thing. He asked if there are repercussions to the attorney and the Councillor if such a situation should occur. Robert Elrod, General Counsel, stated that if there is an actual conflict of interest, the rules of professional conduct state that he cannot represent a Councillor unless he has the consent of the full Council and the individual. He said that the rules are clear on this issue and have been in place forever, but is where the rules of professional conduct end. He said that this proposal goes one step further and states whether there is a conflict or not, a contracted attorney for the Council

cannot represent any Councillor in any private matter. He said that the proposal only applies to the contracted attorney by its terms and theoretically, his partners could represent a member of the Council in a private matter if there is no actual conflict. He said that if the reasoning behind passing this proposal is to avoid the appearance of a conflict, then he believes it is not solved by allowing a member of his firm to represent a Councillor in a private matter, either.

Councillor Brown asked if Mr. Elrod feels then that this proposal does not go far enough. Mr. Elrod responded that the rules of professional conduct are clear in this matter, but only when an actual conflict exists. This proposal, however, does not care if there is an actual conflict or not, and makes the appearance of a conflict an ethical matter. He stated that, should this proposal pass, as long as he is retained as General Counsel, no one in his firm will represent a Councillor on a private matter. Councillor Brown asked if Mr. Elrod believes this proposal should then cover everyone in his law firm. Mr. Elrod said that with regards to actual conflicts of interest, the rules of professional conduct prohibit anyone in his firm from representing an individual where a conflict exists. In his opinion, the appearance of a conflict is still there if he were to turn over personal representation of a Councillor to another member of his firm.

Councillor Gray asked Councillor Malone to speak to this issue. Councillor Malone said that in her opinion, this rule is unnecessary. The overriding concern of an attorney is to represent their client to the best of their ability and zealously. She said that the appearance of a conflict does not exist in the rules of professional conduct, and this proposal also could prohibit a contracted attorney from representing a Councillor on a personal matter because of their role as Councillor. She said that this goes too far, and if passed, the Council will have to live with it for a long time.

Councillor Lutz said that the idea is to eliminate the appearance of any impropriety, and this will simply insure that there is no conflict. He said that the other issue regarding representation by law firm members is covered in the rules of professional conduct for attorneys.

Councillor Malone asked how this would be enforced if passed. Councillor Lutz said that the Council or the President of the Council would have to take action. President Cockrum said that contracts for the attorneys are signed by the President, and the President could then take action to terminate that contract.

Councillor Coleman asked how the Councillor involved would be affected or reprimanded. President Cockrum said that he is not attorney, but another member could file a complaint if that were the case. Mr. Elrod said that his contract states that he will comply with the Rules of the Council in performing services. He said that if he breaks those rules, he then breaks the contract. He said that he has counseled President Cockrum to take such a matter before the full Council, instead of terminating such a contract on his own. He said that there is nothing in the Rules of the Council or in this proposal to provide for censure of a Councillor if this should occur, but the Council could do so if they wished.

Councillor Lutz moved, seconded by Councillor Mansfield, for adoption. Proposal No. 2, 2008, as amended, was adopted on the following roll call vote; viz:

24 YEAS: Bateman, Cain, Cardwell, Carson, Cockrum, Coleman, Day, Evans, Hunter, Lutz, Mahern B, Mahern D, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Pfisterer, Plowman, Pryor, Scales, Smith, Speedy, Vaughn
4 NAYS: Brown, Gray, Malone, Sanders
1 ABSENT: Oliver

Proposal No. 2, 2008 was retitled GENERAL ORDINANCE NO. 1, 2008, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 1, 2008

PROPOSAL FOR A GENERAL ORDINANCE to amend Chapter 151 of the Revised Code of the Consolidated City and County regarding the duties of the general counsel and caucus attorneys with regard to representation of council members on private matters.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Sec. 151-101 of the "Revised Code of the Consolidated City and County," regarding duties of the general counsel generally, hereby is amended by adding the underlined language in item (e) to read as follows:

Sec. 151-101. Duties of the general counsel generally.

(a) The general counsel shall be responsible to see that all ordinances and resolutions requested by members of the council are drafted, shall review and approve all proposed ordinances and resolutions as to form and legality, shall advise the clerk as to all matters regarding publication and codification of ordinances and shall give legal advice as requested by the councils, their committees and their members.

(b) The general counsel shall be responsible for editing and supervising of the codification of the ordinances and is authorized to renumber and rearrange sections of ordinances or the codification as deemed appropriate.

(c) The general counsel shall also attend meetings of the majority and minority caucuses upon request of the respective caucus leaders, to discuss or advise as respects council business or procedures, unless the general counsel determines that an ethical conflict would arise from such request.

(d) The general counsel shall represent the council, or councillors (or supervise counsel retained for such purposes, as approved by the president) whenever the corporation counsel has refused to do so or when authorized by resolution of the council.

(e) The general counsel shall not represent a councillor on a private matter or in a private capacity. This shall not prohibit the General Counsel from appearing for Councillors individually in civil matters arising out of actions taken by Councillors which they in good faith believed were within the scope of their official duties and such representation is authorized under subsection (d) of this section.

SECTION 2. Sec. 151-102 (b) of the "Revised Code of the Consolidated City and County," regarding caucus attorneys and consultants, hereby is amended by adding the underlined language to read as follows:

Sec. 151-102. Caucus attorneys and consultants.

(a) Within the appropriations specified and available for such purposes, the majority leader and minority leader may recommend contracting for attorneys or consultants for their respective caucuses. Such recommendations shall be submitted to the general counsel for distribution to the members of the committee on committees. Upon approval of any such recommendation by another member of that committee, the clerk shall contract for such services.

(b) If an attorney is employed or retained to provide legal services to a caucus, the client shall be the caucus. Such attorney may appear on behalf of the respective caucus at committee meetings but shall not be entitled to appear before the full council, except by vote of the full council. Such attorney shall not represent a councillor on a private matter or in a private capacity.

(c) No caucus consultant shall be compensated for time spent on partisan political activities.

(d) Statements for services of caucus consultants shall be verified by the respective caucus leader before being submitted to the clerk for payment.

SECTION 3. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14.

NEW BUSINESS

Councillor Vaughn said that the Public Safety and Criminal Justice Committee originally scheduled for Wednesday, January 30, 2008 was rescheduled to Thursday, January 31, 2008 here in the Public Assembly Room due to the interest in Proposal No. 6, 2008. He invited and encouraged the public to attend and provide input.

ANNOUNCEMENTS AND ADJOURNMENT

The President said that the docketed agenda for this meeting of the Council having been completed, the Chair would entertain motions for adjournment.

Councillor Sanders stated that she had been asked to offer the following motion for adjournment by:

- (1) All Councillors in memory of David Myers; and
- (2) Councillor Day in memory of Mildred Neel; and
- (3) Councillor Pryor in memory of Gladys Sutton and Francis Johnson; and
- (4) Councillor Oliver in memory of Odis Radcliff, Jr. and Rev. Dr. James Morris Brown; and
- (5) Councillor Cain in memory of Anna Parker and Faye Morris; and
- (6) All Councillors in memory of Lyman Battle, Philip Harris, Richard Craig, Benita McIntire, Floyd Swails, and Jack Hacker; and
- (7) Councillor Sanders in memory of Jerry Stein, Dr. Michael Hart and Kathleen Breinlich;
- (8) Councillors Pryor and Sanders in memory of John "Don" Bardon; and
- (9) Councillor McQuillen in memory of George K. Toombs and Clark H. Maudlin.

Councillor Sanders moved the adjournment of this meeting of the Indianapolis City-County Council in recognition of and respect for the life and contributions of David Myers, Mildred Neel, Gladys Sutton, Francis Johnson, Odis Radcliff, Jr., Rev. Dr. James Morris Brown, Anna Parker, Faye Morris, Lyman Battle, Philip Harris, Richard Craig, Benita McIntire, Floyd Swails, Jack Hacker, Jerry Stein, Dr. Michael Hart, Kathleen Breinlich, John "Don" Bardon George K. Toombs and Clark H. Maudlin. She respectfully asked the support of fellow Councillors. She further requested that the motion be made a part of the permanent records of this body and that a letter bearing the Council seal and the signature of the President be sent to the families advising of this action.

There being no further business, and upon motion duly made and seconded, the meeting adjourned at 7:46 p.m.

We hereby certify that the above and foregoing is a full, true and complete record of the proceedings of the regular concurrent meetings of the City-Council of Indianapolis-Marion County, Indiana, and Indianapolis Police, Fire and Solid Waste Collection Special Service District Councils on the 28th day of January, 2008.

In Witness Whereof, we have hereunto subscribed our signatures and caused the Seal of the City of Indianapolis to be affixed.

President

ATTEST:

Clerk of the Council

(SEAL)